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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,531	12/30/1999	W. DAVID CONLEY	19260-1780	6461
36092	7590	05/18/2005	EXAMINER	
STEVEN SULLIVAN 268 TERRIE DR POTOMAC FALLS, VA 20165			NGUYEN, DUC MINH	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/475,531

Applicant(s)

CONLEY, W. DAVID

Examiner

Duc Nguyen

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,23,24,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 23, 24, 26, 27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolting et al (6,351,453) in view of Lesley (6,188,752) and Casner (4,517,411).

Consider claims 1, 7, 26-27. Nolting teaches a method for charging a activation fee for a telephone call direct to a called telephone number comprising receiving the called telephone number and billing information from a set activation fee payphone (col. 30, ln. 10-39); inherently identifying the telephone call as having the originating telephone number associated with the set activation fee telephone (col. 30, ln. 10-39); and charging the set activation fee for the telephone call (col. 30, ln. 10-39).

Nolting does not clearly teach determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone.

Lesley teaches determining if the billing information is valid; if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee payphone (col. 2, ln. 6-29; col. 6, ln. 31-42; col. 8, ln. 1-46). Lesley further teaches adding the charge for the telephone call to a customer bill (in case the subscriber makes a prepaid call using the public pay telephone; column(s) 2, line(s) 50-58; column(s) 3, line(s) 23-54; column(s) 6,

Art Unit: 2643

line(s) 65 to column(s) 7, line(s) 13; column(s) 8, line(s) 55 to column(s) 9, line(s) 6). Lesley inherently teaches determining whether the account is active, regardless the fund is available or not.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lesley into the teachings of Nolting, so that the telephone owner can earn some profits and recoup losses from providing telephone service to telephone user. Nolting in view of Lesley does not clearly teach if the billing information is valid, then releasing the false dial tone; seizing a true dial tone.

Casner teaches a method for charging a fee for a telephone call direct to a called telephone number, comprising generating a false dial tone (dial tone generated by the PBX or PABX; col. 3, ln. 38-49); receiving the called telephone number and billing information (credit card, called telephone number, station number and/or room number; col. 3, ln. 38 to col. 4, ln. 17); maintaining the false dial tone (col. 3, ln. 38 to col. 4, ln. 26); if the billing information is valid (col. 4, ln. 18-26), then releasing the false dial tone; seizing a true dial tone (dial tone provided by the DDD network; col. 4, ln. 18-22); and placing the telephone call to the called telephone number (col. 3, ln. 38 to col. 4, ln. 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Casner into the teachings of Nolting in view of Lesley in order to effectively verify the identity of the originating station and billing information.

Consider claims 3, 5. Nolting further teaches determining whether the originating number corresponds to an entry in a billing database (col. 30, ln. 10-39).

Art Unit: 2643

Consider claims 4, 6. Lesley further teaches the use of an SCP database (fig. 1, col. 9, ln. 45-63).

3. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolting et al (6,351,453) in view of Casner (4,517,411).

Consider claim 23. Nolting teaches a method for calculating charge for a telephone call, comprising monitoring a telephone call placed to a called telephone number to determine call parameters (col. 30, ln. 10-39); determining whether the telephone call originated from a telephone having an originating telephone number that corresponds to an entry in a database (col. 30, ln. 10-39); determining a set activation fee applies to the telephone call; calculating the charge for the telephone call by using the call parameters to calculate a first portion of the charge (col. 30, ln. 10-39); and adding the set activation fee as a second portion of the charge by a network element, so that the set activation fee is independent of the first portion of the charge (since the LEC receives 20 cents or 25 cents for every call from a coin phone to a prepaid calling card number and the cost of the call is charged to the prepaid account. Therefore, the CDR inherently contains a portion for the duration of the call and another portion to indicate that the LEC would receive 20-25 cents). Nolting does not clearly teach if the billing information is valid, then releasing the false dial tone; seizing a true dial tone.

Casner teaches a method for charging a fee for a telephone call direct to a called telephone number, comprising generating a false dial tone (dial tone generated by the PBX or PABX; col. 3, ln. 38-49); receiving the called telephone number and billing information (credit card, called telephone number, station number and/or room number; col. 3, ln. 38 to col. 4, ln.

Art Unit: 2643

17); maintaining the false dial tone (col. 3, ln. 38 to col. 4, ln. 26); if the billing information is valid (col. 4, ln. 18-26), then releasing the false dial tone; seizing a true dial tone (dial tone provided by the DDD network; col. 4, ln. 18-22); and placing the telephone call to the called telephone number (col. 3, ln. 38 to col. 4, ln. 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Casner into the teachings of Nolting in order to effectively verify the identity of the originating station and billing information.

Consider claim 24. Nolting further teaches the limitations of claim 24 in (col. 7, ln. 10-21. It is noted that Call Detail Record is an accounting record produced by Switches to track Call Type, Time, Duration, Facilities used, Originator, Destination, etc. CDRs are used for customer billing, rate determination, network monitoring, and facility capacity planning).

Response to arguments

4. Applicant's arguments filed 1/14/05 have been fully considered but they are not persuasive.

Regarding the Nolting reference, applicant states that Nolting fails to teach determining whether billing information is valid prior to placing the call. In contrast to applicant's assertions, Nolting teaches calls made to a prepaid calling card numbers (e.g., 1-800 number), for example from a coin phone. It is well-known to one of ordinary skill in the art that at the coin phone, a caller dials the 1-800 number and then the prepaid calling card number in order to make a prepaid calling card call. The prepaid calling card number represents the billing information. The calling card number is checked either by the LEC or, in most cases, by the a service provider

Art Unit: 2643

which provides the calling card service. However, in order to clear up this issue, the examiner provides Lesley, since Lesley clearly teaches this feature.

In response to applicant's argument that it would not be obvious to make the combination set forth in the rejection of independent claims 1 and 23, the test for obviousness is not whether the features (e.g., PABX environment) of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Casner clearly teaches that the PABX in combination with the HOBIC provide false dial tone and determine whether billing information for the telephone call is valid prior to place the telephone call to the called telephone number (column(s) 3, line(s) 38 to column(s) 4, line(s) 26).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

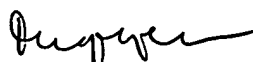
Art Unit: 2643

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc Nguyen whose telephone number is (571)272-7503. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kuntz Curtis can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Duc Nguyen
Primary Examiner
Art Unit 2643

5/16/05